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MEMO

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Ravalli County Commissioners

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TO: Regina Plettenberg, Clerk & Recorder
Karen Hughes, Planning Director
Lea Jordan, Director, Environmental Health

CC: Ravalli County Commissioners

FROM: George Corn *GC*

DATE: January 30, 2008

RE: Effects of Judge Haynes' Opinion and Order in the Condominium Lawsuits

Dear Regina, Karen, and Lea:

I am sure you have each had a chance to read Judge Haynes' Opinion and Order issued January 25, 2008, in the condominium lawsuits. Karen and I also had an opportunity to read through this Opinion in detail and discuss its effects on the current Ravalli County procedures for reviewing proposed condominium development. We conclude as follows:

The current check list used by Regina in the Clerk and Recorder's office before accepting a final condominium declaration for filing is valid and should continue to be used. This list includes requiring a certificate of compliance from the Planning Office and the Environmental Health office (or DEQ), in addition to the other statutory requirements. Regina may continue to accept preliminary declarations for filing that do not yet meet all of these requirements, but such declarations must clearly be marked "Preliminary" so that a title search will show that the property is not yet available to be sold.

In regard to Planning Department review, Judge Haynes held that the exemption review requirement set forth in Regulation 4-4 is valid and may be applied pursuant to Regulation 4-6 to determine whether a condominium exemption is being used for the purpose of evading subdivision and platting regulations. Thus, any application for a condominium exemption in a project that actually contains multiple-unit condominium buildings should be analyzed to determine whether there is an evasion purpose. Pursuant to the Opinion, condominium projects

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that are submitted containing only stand-alone, single family "units" are actually subdivisions, which must proceed through subdivision review unless they qualify for a different exemption.

As has been the County position since enactment, our current interim zoning specifically restricts subdivision plats only, and does not apply to legitimate condominium projects.

It is extremely helpful to have this decision as comprehensive zoning regulations are being proposed and drafted. It will be important to specifically address the issues discussed in the Order in any long-term zoning that is passed in the county.

We are unsure whether the plaintiffs in this matter will appeal Judge Haynes' Order; however, at this time you should consider the Order valid and binding law and operate in accordance with its provisions. If you have any questions about the effects of this Order on current or future projects, please let us know.

Thank you to everyone for the information and assistance provided to address this issue. Keep up the good work!

GHC:hs